

ORDER NO. 4294

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail & First-Class Package Service Contract 52
(MC2017-174)
Negotiated Service Agreements

Docket No. CP2017-275

ORDER APPROVING AMENDMENT ONE TO
PRIORITY MAIL & FIRST-CLASS PACKAGE SERVICE NEGOTIATED SERVICE
AGREEMENT

(Issued December 21, 2017)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail & First-Class Package Service negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail & First-Class Package Service Contract 52, December 18, 2017 (December 18, 2017 Notice). The amendment is an attachment to the Notice (Amendment). The December 18, 2017 Notice corrected and replaced a previous filing. Notice at 1; see also USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 52, Filed Under Seal, December 12, 2017 (December 12, 2017 Notice).

In Order No. 4083, the Commission approved the Priority Mail & First-Class Package Service Contract 52 negotiated service agreement (Existing Agreement).² On December 12, 2017, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On December 13, 2017, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

Also on December 13, 2017, the Commission issued Chairman's Information Request No. 1.⁴ CHIR No. 1 asked the Postal Service to confirm that the Amendment represented a change in the prices previously reviewed by the Commission. See CHIR No. 1, Question 1. The Postal Service filed a reply to CHIR No. 1 on December 18, 2017.⁵ Also on December 18, 2017, the Postal Service filed a revised notice addressing the change in prices, along with supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. December 18, 2017 Notice at 1.

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the December 18, 2017 Notice. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁶ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on

² See Docket Nos. MC2017-174 and CP2017-275, Order Adding Priority Mail & First-Class Package Service Contract 52 to the Competitive Product List, August 30, 2017 (Order No. 4083).

³ See Docket No. CP2017-275, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 13, 2017.

⁴ Chairman's Information Request No. 1, December 13, 2017 (CHIR No. 1).

⁵ USPS Response to Chairman's Information Request No. 1, December 18, 2017.

⁶ Public Representative Comments on USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 52, December 19, 2017 (PR Comments).

that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* at 3.

III. COMMISSION ANALYSIS

The Commission has reviewed the notices, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment changes the implementation of volume-based tiered pricing and revises the negotiated rates. December 18, 2017 Notice, Attachment A at 1-4.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.I. of the Existing Agreement, as amended, should allow its revenues to cover costs for the duration of its term. December 18, 2017 Notice, Attachment A at 3. The

Commission will continue to review the cost coverage of the Existing Agreement, as amended, in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its review. December 18, 2017 Notice at 1. If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail & First-Class Package Service Contract 52 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary